

Counsel listed on next pages

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Philip Wong, Frederic Chaussy, and Leslie
Marie Shearn, individually, on behalf of all
others similarly situated, and on behalf of
the general public,

Plaintiffs,

vs.

HSBC Mortgage Corporation (USA);
HSBC Bank USA, N.A.; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 3:07-cv-2446 MMC

**STIPULATION AND [PROPOSED]
ORDER FOR TOLLING OF FLSA
STATUTES OF LIMITATIONS
REGARDING CLASS AND PUTATIVE
CLASS MEMBERS AND MOVING
HEARING ON PLAINTIFFS' MOTION
FOR CONDITIONAL CERTIFICATION**

1 Donald H. Nichols, MN State Bar No. 78918
2 (admitted **pro hac vice**)
3 Paul J. Lukas, MN State Bar No. 22084X
4 (admitted **pro hac vice**)
5 Tim C. Selander, MN Bar No. 0387016
6 (admitted **pro hac vice**)
7 NICHOLS KASTER & ANDERSON, PLLP
8 4600 IDS Center
9 80 S. 8th Street
10 Minneapolis, MN 55402
11 Email: nichols@nka.com, lukas@nka.com, selander@nka.com

12 Bryan J. Schwartz, CA State Bar No. 209903
13 Matthew C. Helland, CA State Bar No. 250451
14 NICHOLS KASTER & ANDERSON, LLP
15 One Embarcadero Center, Ste. 720
16 San Francisco, CA 94111
17 schwartz@nka.com, helland@nka.com

18 Attorneys for Individual and Representative Plaintiffs

19 George J. Tichy, II, CA Bar No. 041146
20 Michelle R. Barrett, CA Bar No. 197280
21 Kimberly L. Owens, CA Bar No. 233185
22 Justin T. Curley, CA Bar No. 233287
23 LITTLER MENDELSON
24 A Professional Corporation
25 650 California Street, 20th Floor
26 San Francisco, CA 94108.2693
27 Telephone: 415.433.1940
28 Facsimile: 415.399.8490
E-mail: gtichy@littler.com, mbarrett@littler.com,
kowens@littler.com, jcurley@littler.com

Attorneys for Defendants
HSBC MORTGAGE CORPORATION (USA) and
HSBC BANK USA, N.A.

1 PURSUANT TO LOCAL RULE 7-12, Plaintiffs Philip Wong, *et al.* and
2 Defendants HSBC Mortgage Corporation (USA) and HSBC Bank USA, NA (collectively, “the
3 parties”) stipulate as follows:

4 WHEREAS, the parties understand that scheduling difficulties arise during the
5 holiday season;

6 WHEREAS, the parties have agreed, upon Court approval, that Plaintiffs and
7 putative Plaintiffs’ Class Members should not be adversely affected by counsel’s scheduling
8 requirements;

9 WHEREAS, the FLSA, 29 U.S.C. § 216(b) does not toll the statute of limitations
10 on FLSA claims until each class member “opts-into” the suit;

11 WHEREAS, Plaintiffs have filed a motion for conditional certification which, if
12 successful, would provide for judicial notice to class members, to notify them of an opportunity to
13 “opt-into” the suit;

14 WHEREAS, Defendants wish to postpone the hearing on this motion until
15 February 8, 2008, from its current January 25, 2008 date, due to previous holiday plans, as
16 noticed in the Notice of Unavailability filed with the Court on November 13, 2007, as well as due
17 to a previously scheduled business trip planned by lead counsel, George J. Tichy and Michelle R.
18 Barrett, for January 24 and 25, 2008; and

19 WHEREAS, nothing by this stipulation or any other written or oral agreement by
20 Defendants shall be construed as an admission or a waiver that class certification or a collective
21 action in this case is appropriate;

22 IT IS HEREBY STIPULATED by and between the parties to this action through
23 their designated counsel as follows:

24 The parties respectfully request that this Court toll the statute of limitations for all FLSA
25 claims for a period of two (2) weeks for any putative Plaintiffs’ class members who file a
26 “Consent” or “Opt-In” form after the date this Court decides upon the Plaintiffs’ motion for
27 conditional certification, currently on file. The effect of such tolling shall be that any putative
28

1 class members shall have two (2) weeks added to the statute of limitations applying to each
2 putative class member's claims.

3
4 Dated: January 2, 2008

NICHOLS KASTER & ANDERSON, LLP

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6
7 By: _____/s/
Bryan J. Schwartz
Attorneys for Plaintiffs and Representative Plaintiffs

8
9 Dated: January 2, 2008

10 LITTLER MENDELSON, PC

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12
13 By: _____/s/
Michelle R. Barrett
Attorneys for Defendants

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15
16 **ORDER**

17 PURSUANT TO STIPULATION, IT IS SO ORDERED.

18
19
20 Dated: _____

Honorable Maxine M. Chesney
United States District Court Judge